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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,454	03/04/2004	Frank Dindl	2003-003	2453

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EXAMINER

JOHNSON, STEPHEN

ART UNIT PAPER NUMBER

3641

DATE MAILED: 08/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/708,454

Applicant(s)

DINDL ET AL.

Examiner

Stephen M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

The full name of each inventor (family name and at least one given name together with any initial) has not been set forth.

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

It is not signed by the inventors.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **shooter and weapon mount** (see claim 2) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional

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replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because the drawings lack descriptive labels to identify the structural elements of the anti-armor gun (eg. sear, trigger mechanism, sear notch, bolt carrier, bolt, firing pin, barrel, etc.). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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4. The disclosure is objected to because of the following informalities: The disclosure lacks descriptive labels to indentify the sear, trigger mechanism, sear notch, bolt carrier, bolt, firing pin, barrel, etc..

Appropriate correction is required.

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

It is not understood as to what position the firearm fires in that could be appropriately described as an open bolt position. The position of fig. 2 while it is open bolt has the cartridge only partially chambered and the projectile pointing in the wrong direction. Figs. 3 and 4 have the cartridge properly chambered for firing but both of these figures denote a closed bolt. Please clarify.

Further, it is not understood as to how the firearm could operate with an open bolt. If the bolt is open a firing, the propellant that normally goes down the barrel to force the projectile down the barrel must at least partially go rearwardly into the receiver endangering and/or injuring the operator of the firearm. Applicant has not explained how it is possible to operate the

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firearm with an opened bolt while avoiding the potential harmful effects associated with an open bolt. Please clarify.

Claim 2 claims firing the gun while the bolt is in forward motion to offset the recoil impulse created during firing. There is no illustration of this position or explanation of how the gun is fired at the unillustrated position. Further, the figure 3 position illustrates the cartridge unfired and in a closed bolt position. This position is considerably after the position where the bolt would have a forward motion to offset the recoil impulse yet firing has not yet occurred as claimed in claim 2. Please explain.

7. Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicant has not taught or explained how the firearm could operate with an open bolt. If the bolt is open a firing, the propellant that normally goes down the barrel to force the projectile down the barrel must at least partially go rearwardly into the receiver endangering and/or injuring the operator of the firearm. Applicant has not explained how it is possible to operate the firearm with an opened bolt while avoiding the potential harmful effects associated with an open bolt. Please clarify.

Claim 2 claims firing the gun while the bolt is in forward motion to offset the recoil impulse created during firing. There is no illustration of this position or explanation of how the gun is fired at the unillustrated position. Further, the figure 3 position illustrates the cartridge unfired and in a closed bolt position. This position is considerably after the position where the

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bolt would have a forward motion to offset the recoil impulse yet firing has not yet occurred as claimed in claim 2. Please explain.

8. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 1, the phrase “the weapon” lacks an antecedent. In claim 1, line 1, how is the phrase “the weapon” intended to relate to the previously claimed (anti-armor gun)? In claim 1, line 2, the phrase “the open bolt” lacks an antecedent. In claim 1, line 2, what structure is intended to be the open bolt and what position is intended to be the position from which the open bolt is fired? Please clarify. In claim 1, what modification is intended by the phrase “modified to fire from the open bolt”?

In claim 2, line 2, the phrase “the forward momentum” lacks an antecedent. In claim 2, lines 2-3; and in claim 3, line 3; the phrase “the recoiling masses” lacks an antecedent. In claim 2, lines 2-3; and in claim 3, line 3; what structural elements are intended to correspond to the claimed “the recoiling masses”? In claim 2, lines 3-4; and in claim 3, line 4; the phrase “the recoil impulse” lacks an antecedent. In claim 2, line 4, the phrase “the recoil energy” lacks an antecedent.

In claim 3, line 2, the phrase “the drive spring” lacks an antecedent. In claim 3, line 2, what structural element is intended to correspond to the claimed “drive spring”. In claim 3, lines 2-3, the phrase “the forward momentum” lacks an antecedent. Claims 1-3 do not end in periods.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan.

Sullivan discloses a gun comprising:

- | | |
|---|--|
| a) said gun fires from an open bolt; | col. 7, lines 1-9 |
| b) modifying said gun to fire from the open bolt; | the entire disclosure references numerous ways in which the gun structure has been changed or differs from relate art guns to qualify as modifications |
| c) the forward momentum of recoil offsets a significant portion of firing recoil impulse; | col. 13, lines 33-68 |
| d) an open bolt; and | 3 (see figs. 6A-6E) |
| e) a drive spring. | 307 |

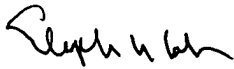
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Savioli discloses another state of the art open-bolt firing firearm.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158. The examiner can normally be reached on Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this

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application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-9327.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ